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# CJIB debt repayment scheme policy

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*Frequency and nature of application of powers  
dept repayment scheme policy by the CJIB*



22814

**Summary final report**

3 April 2023

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# I Contents

<b>S Summary .....</b>	<b>5</b>
S.1 Payment in instalments .....	5
S.2 Termination of recovery of fines.....	7
S.3 Emergency stop regulation.....	7
S.4 Impact on debt problems.....	8



## S Summary

The Research and Documentation Centre (WODC) commissioned a study into the application of three powers of the Central Judicial Collection Agency (CJIB), that have been created in the framework of socially responsible recovery of fines. These concern:

- the power to allow payment in instalments for Wahv fines<sup>1</sup>;
- the power to terminate recovery of fines, which serve no reasonable purpose and cannot be pardoned;
- the power to impose an emergency stop in the collection of Wahv fines and criminal financial penalties, with a link to debt assistance services.

In addition, indications were to be gathered on the extent to which the application of the powers in practice contributes to the alleviation of debtors' debt problems.

### S.1 Payment in instalments

Since 2015 (and in 2018 legally embedded in the Wahv), the CJIB has the possibility to allow payment in instalments for Wahv fines, initially for a minimum amount of 225 euros and since 1 January 2019 for a minimum of 75 euros (and half of that amount for persons younger than 16). In addition, the debt repayment scheme in instalments is also possible for criminal financial penalties, compensation measures and confiscation measures.

#### ***applications and rejections***

In the period between 2018 and 2021, the total number of *fines* decreased (from 9.2 million to 8.0 million), while the number of fines for which a debt repayment scheme was set up, increased (from around 318,000 to 406,000). The rate of payment arrangements for Wahv fines increased from 3.6% in 2018 to 5.4% in 2020.

A debt repayment scheme may include various Wahv fines and other criminal financial penalties. Between 2018 and 2021, the total number of *payment arrangements applied for* (85% of which contain Wahv fines) increased by 56% (from around 191,000 to 298,000), with a strong increase in 2019. This coincides with a decrease of the threshold for payment in instalments to 75 euros, which partly accounts for the increase. The number of *approved payment arrangements* increased by more than 170,000 in 2018 to nearly 274,000 in 2021. An average of 8% of the applications is rejected annually (around 19,000 per year). The rejection percentage decreased from 9% in 2018 to 6% in 2021.

#### ***recovery phase when entering into a debt repayment scheme***

Debt repayment schemes may be entered into in various different phases of recovery. The following phases can be distinguished: initial phase (letter that communicates the fine), recovery phase (1 or 2 reminders), collection phase and coercive phase. Payment arrangements are usually entered into in the initial phase (42% in 2018; 48% to 50% as of 2019). The share of payment arrangements that have been entered into in the coercive phase decreased from 25% to 15%. A shift has taken place from a start in the coercive phase to a start in the initial phase and in the collection phase (increase from 8% to 11%). The share of payment arrangements that start in the collection phase has not fluctuated much over the years (between 23% and 26%).

<sup>1</sup> The Administrative Traffic Enforcement Act (*Wet administratiefrechtelijke handhaving verkeersvoorschriften*, Wahv) imposes standard fines for minor traffic violations, such as illegal parking or minor speeding offences.

### **grounds for rejection**

There are various grounds for rejection of an application for a debt repayment scheme. The ground that occurs most frequently is non-compliance with previous regulations. This ground declined in importance from 64% in 2018 to 55% in 2021. Possibly, a more flexible application of the rules plays a part in this: since April 2021, non-compliance that dates back 6 to 12 months is dealt with more leniently, meaning that non-compliance is no longer regarded as a ground for rejection in this period.

The second ground for rejection is that joinder of cases is not possible. This concerns situations in which a payment arrangement is applied for, while there is already another payment arrangement regarding a previous financial penalty. The importance of this ground increased from 10% (2018) to 25% (2021). This is remarkable, because over the course of time, the possibilities to join cases have been extended at the CJIB. The third ground is that the application does not meet the guidelines of the CJIB.

The other grounds for rejection occur relatively infrequently and include: the unpaid amount is too small to make a payment arrangement; out-of-court debt assistance (MSNP) is applicable (a framework in which individual agreements are made that fall outside the CJIB power regarding payment arrangements); transfer to a bailiff or the Public Prosecutor (OM).

### **types of arrangements and way of termination**

Payment scheme in instalments consists of two types: the standard arrangement, with fixed terms and instalment amounts, and the customised arrangement, which can be made if there are special circumstances and the standard arrangement is not possible or offers no solution.

In the period between 2015 and 2021, in the majority of cases (85% on average) the standard arrangement was applied. An average of 15% concerned customised arrangements. In 2018, the year in which payment scheme in instalments was formalised by law, the number and share of customised arrangements clearly increased (from 11% in 2017 to 17% in 2018).

Most arrangements ended *positively*, which means the full amount was paid. The share of arrangements that ended positively is over 50% in each year of the period between 2018 and 2021 (52%-59%). The share of arrangements that ended *negatively* (insufficient or no payment) decreased from 33% to 26%.

In addition, 15% to 20% of the arrangements moved on to a *follow-up process*. In these cases, the arrangement is adapted (and registered anew) or is continued in a different way. Part of these administratively completed arrangements reoccur as new applications in the register; another part is transferred to a process outside the CJIB power (such as MSNP) or is paused (if an appeal is lodged).

There is a clear difference between *standard* and *customised arrangements* when the way of termination is concerned. Customised arrangement less often end positively (19%-27%; compared to 57%-64% of standard arrangements) and more often negatively (34%-46%; compared to 20%-31% of standard arrangements). Customised arrangements also move on to a *follow-up process* more often, particularly in more recent years: 27%-41% (compared to 13%-17% of standard arrangements). It must be noted here that a customised arrangement is made when special circumstances apply and the standard arrangement is not possible or does not offer a solution. This arrangement is intended for people in (financially) pinching situations. Therefore, it can be expected beforehand that it is harder for the debtors in question to comply with the arrangement, or that the agreed arrangement needs to be adjusted, or that debtors must participate in a debt assistance scheme (follow-up process).

### **composition of debt repayment schemes Wahv fines**

For payment arrangements that have already been terminated (which include a Wahv fine), the number of financial penalties they relate to has been identified. A distinction was made between arrangements for: one Wahv fine, several Wahv fines, and a combination of a Wahv fine with other financial penalties.

In the period between 2016 and 2017, the majority of arrangements concerned arrangements for *one Wahv fine* (54%-64%); arrangements concerning more than one Wahv fine occurred less often (20-31%). In the period between 2018 and 2021, a *shift* occurs towards more arrangements concerning more than one Wahv fine (38%-41%).

The share of payment arrangements for a combination of a Wahv fine and one or more other financial penalties has been relatively constant and has fluctuated between 14% to 17% since 2016.

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## **S.2 Termination of recovery of fines**

From 1 January 2020, the power has been created for the Minister for Legal Protection to terminate the recovery of 'fines for which a pardon cannot be granted' (irrevocable judgements concerning fines below 340 euros) if he is of the opinion that their continuation does not serve a reasonable purpose. Its application is intended for very exceptional cases. This power is regulated by law through the introduction of Article 6:1:11 (1) Sv.

CJIB data show that this power has only been applied within the framework of an ISD measure.<sup>2</sup> There are no other situations in which the power has been used. It also turns out that the power, which has been in effect as of 1 January 2020, has not been applied before April 2021. The reason why it has not been applied before this date is unknown.

Up to and including 2021, the power to terminate the recovery of fines was applied 96 times in total. The average unpaid amount was 161 euros. In most cases (60%) the amount was between 100 and 200 euros.

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## **S.3 Emergency stop regulation**

On 1 April 2020, the emergency stop regulation for Wahv fines and criminal financial penalties was introduced and on 1 September 2021 it was formalised in the 'Policy rules on enforcement of criminal and administrative decisions 2021'<sup>3</sup> of the Minister for Legal Protection. The emergency stop regulation is a postponement of payment that may be granted at the request of the person involved, with the aim to enable them to seek help from the municipality to resolve debts. Postponement is granted for a maximum of four months. In case the municipality decides to offer debt assistance, the CJIB can extend the postponement by a maximum of eight months.

In the period between 2020-2021 the emergency stop procedure was applied approximately 5,000 times.

After four months, most emergency stop arrangements are followed by *payment scheme in instalments* (72% on average). With regard to a small share (6% on average) *full payment* occurs after the emergency stop procedure. For both categories, it is not known which part sought (and received) debt assistance and which part did not.

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<sup>2</sup> Institution for Repeat Offenders Measure (*Maatregel Inrichting Stelselmatige Daders*).

<sup>3</sup> *Beleidsregels tenuitvoerlegging strafrechtelijke en administratiefrechtelijke beslissingen 2021*.

In an average of 11% of the cases the effort to stimulate people to look for formal help for their debt problems was successful: in 6% of the cases a debt assistance process was started (consolidation phase, MSNP<sup>4</sup> or WSNP<sup>5</sup>) and in 5% of the cases the arrangement was extended by eight months.

In the rest of the cases (11% on average) the emergency stop arrangement was terminated in a different way, e.g., case changes, appeals, objections, withdrawals, bankruptcy or transfer to the Public Prosecutor (OM). Part of this 'other outflow' resulted in an extension of eight months after all.

Eventually, 390 emergency stop arrangements turned out to have been extended by eight months (approximately 8%). The majority of this group (58%) switched to a payment in instalments arrangement after this extension period. Moreover, 17% ended up in a debt assistance procedure (consolidation phase, MSNP or WSNP). In addition, part of the debtors were granted additional postponement (13%), for example because of long waiting times. Therefore, in these cases it is not clear how the emergency stop arrangement will eventually be terminated.

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## S.4 Impact on debt problems

It has been investigated among debt counsellors and other experts to what extent there are indications that the powers of the CJIB to make payment arrangements contribute in practice to alleviating the debt problems of debtors. An expert meeting was held for this purpose.

There are indications that payment in instalments and the emergency stop arrangement contribute to alleviating debt problems. Compared to a situation without the possibility to spread payments, the standard and customised arrangements offer debtors the opportunity to avoid payment peaks in one month. Because of this, people experience fewer acute payment problems (also regarding other payment obligations, such as fixed costs) and fewer additional debt problems (in particular less stress). Reducing the threshold to be eligible for a payment arrangement contributes to alleviating debt problems. For people with a low income or debt problems the threshold of 75 euros may still be too high and problematic in view of their repayment capacity. The emergency stop regulation can give people a breathing space.

Although the experience (and familiarity) with the emergency stop is limited among the consulted experts, they regard the emergency stop as a welcome measure that may alleviate the impact of a fine or criminal financial penalty on debt problems. The efforts to stimulate people to make use of debt assistance is regarded as an important part of guiding people towards help.

Suggestions have been made to increase the intended impact of the regulations to alleviate debt problems. A more outreaching approach was suggested (warm transfer of CJIB to municipalities), with the reservation that it should be clear in advance that it is possible (in terms of capacity) for municipalities to follow up on the extra alerts that ensue. As yet, it appears that there is insufficient capacity for this, moreover, no forecast can be made (in this scheme) on the results that may be expected in relation to the additional efforts.

In the expert meeting it became clear that no statement can be made about certain target groups because they are not known to debt counsellors and administrators. For instance, it is not known to what extent successful use of the schemes has contributed to preventing problematic debts. These users are out of sight of debt counsellors. The consulted experts cannot give an indication if the schemes alleviate the debt problems of these groups. To gain a better insight into this issue, these 'invisible' target groups should be included in a follow-up study.

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<sup>4</sup> Out-of-court debt settlement.

<sup>5</sup> Debt restructuring of natural persons Act.